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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 LAM RESEARCH CORPORATION,

12 Plaintiff,

13 v.

14 SUBHASH DESHMUKH,

15 Defendant.

Case No. C04-5435FDB

ORDER DENYING PLAINTIFF'S
MOTION TO AMEND AND FOR
NEW SCHEDULING ORDER

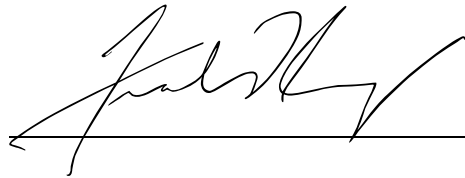
16 Before the court is the motion of Plaintiff Lam Research Corporation to amend its complaint
17 and for the issuance of a new scheduling order. The appeal of Defendant Deshmukh divested this
18 court of all authority to proceed further until the mandate has been issued by the Court of Appeals.
19 *In re Thorpe*, 655 F.2d 997, 998 (9th Cir. 1981). As no mandate has issued, this court has no
20 authority to rule on any matters involved in the appeal. *Id.* at 999. This court has already
21 recognized that it lacks jurisdiction to decide issues before the Court of Appeals and that dismissal of
22 the action was an issue before the Court of Appeals. *See* Dkt. # 225. In addition, the relief sought
23 by Plaintiff is in direct conflict with the Court of Appeals' ruling. There is no remand, no issues
24 remain which were not foreclosed by the appellate court's ruling, and the Plaintiff's case has been
25 dismissed.

1 ACCORDINGLY,

2 IT IS ORDERED:

3 (1) Plaintiff's motion to amend and for new scheduling order (Dkt.# 239) is **DENIED**.

4 DATED this 12th day of December, 2005.

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7 A handwritten signature in black ink, appearing to read 'Frank D. Burgess', is written over a horizontal line.

8
9 FRANKLIN D. BURGESS
10 UNITED STATES DISTRICT JUDGE